

WHO KILLED SCOTT MACKLEM?

Author's Note: Every wrongful conviction causes dual torment: the torment of the innocent yet imprisoned individual, and the social torment that the actual perpetrator remains free. This blog focuses primarily on the latter, in the hope that we will gain more knowledge about the murderer of Scott Macklem.

Post #5: Who Cares?

I've spent the last year and a half away from this blog. There are numerous reasons for my absence including overwhelming work and personal obligations. But I must admit that back in the late summer and fall of 2017, when I thought about the question "Who Killed Scott Macklem?" too often my subconscious answer was "Who cares?" That was harsh, and it was not because I no longer cared. It grew from my frustration that despite how many DO care, some very important and influential people clearly do NOT. As my life and Fred Freeman's case have transitioned over the last 18 months I've accumulated a list so I'm dedicating this post to those people and organizations, before I launch back into the specifics of this case again in my next post.

Proving Innocence, whose website is the platform for this blog, is an incredible organization of dedicated people, all of whom clearly care who killed Scott Macklem. They have spent countless hours of time and countless resources trying to help Fred Freeman in his case for innocence, and actually investigating Scott Macklem's murder. They have made incredible strides in both endeavors, and have continued the effort despite many disheartening setbacks.

The Michigan Innocence Clinic, which has provided legal representation to Fred Freeman in his criminal/habeas actions in state and federal court, clearly cares who killed Scott Macklem. Their legal work is incredible. They don't kowtow to the Michigan Attorney General's office; they call the AG out on each and every misrepresentation their office makes in its legal filings. And there are many, many of them. So many that Bill Schuette should be ashamed of himself for allowing his assistant AGs to propagate such rubbish. Hats off to the MIC for knowing the facts and details of this case so well and continuing the fight for justice!

Members of the Legal Profession, Law Enforcement and the Judiciary, many of whom have publicly expressed their opinions on the "investigation" of Scott's murder and the "trial" of Fred Freeman. Many, many more have privately expressed similar opinions about the way this case was handled from the

beginning. These brave people have put their reputations and associations on the line to provide helpful input to Proving Innocence, the MIC, and the media.

Members of the United States Senate, State Senate and State House, many of whom wrote letters of support on behalf of Fred Freeman to Governor Rick Snyder. United State Senator Carl Levin (retired) has offered his assistance on many levels and recognizes that this is an egregious miscarriage of justice.

Members of the Media and Social Media, including but not limited to the Metro Times, WXYZ-TV, the Detroit News/Free Press, Investigation Discovery Channel, my friends on Facebook who support this cause, and other social media users who have dedicated pages to this case. I applaud and respect those members of the media and those on social media who are not afraid of the truth. I applaud my personal friends including Fred Freeman himself for their bravery and persistence.

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Now, not all members of the media are ready to accept the truth. So this is a good place to start my list of those who clearly DON'T care "Who Killed Scott Macklem?"

Members of the Local St. Clair County Media, the same outlets that dubbed Fred Freeman "the ninja killer" during his "trial," still ignore the overwhelming evidence of his innocence. They publish articles about the case now and then but never hint of the possibility that the wrong person was convicted or conversely, that Scott Macklem's murder is actually unsolved. Whether this is due to fear of political or other ramifications is unknown. We do know from reliable sources that the legal culture in St. Clair County is a "mafia-like" very fraternal "old boys club" that discourages even the mention of this case. And yes, those are direct quotes.

Judge Robert Cleland, since appointed to a lifetime term as a United States District Court Judge, was the prosecutor in the Freeman case. He has clearly NEVER cared who actually killed Scott Macklem. This case must be appreciated in its context, and that context is small-town politics. Scott Macklem's father was the Mayor of Croswell, Michigan, and an influential man in local Republican politics. The murder of his son received widespread media attention, and generated great pressure for a quick resolution. Cleland was a three-term St. Clair County Prosecutor who lost his race for Michigan Attorney General in the primary election a few months before Scott's murder. When the Macklem case crossed

Cleland's desk, he needed a quick win to enhance his reputation as a tough prosecutor and to advance his career.

Cleland caught the break he needed when the sister of the murder victim's fiancée suggested that her former "boyfriend," Fred Freeman, may have been the killer. And so the corruption and collusion began. Cleland was determined to swiftly "prove" Freeman's guilt (disregarding all the evidence of actual innocence) and in doing so he used every devious means at his disposal – including soliciting perjured testimony, hiding evidence from the defense, and influencing others in the justice system to buy into this injustice. The collusion included the police, the court, and Freeman's own defense counsel. This poly-addicted previously disbarred incompetent counsel was "suggested" to Fred Freeman by a St. Clair County Deputy Sheriff working in the jail. Not only was Freeman's attorney incompetent, much like the police and others involved in the case, he was intent on not displeasing or incurring the wrath of an aggressive, unprincipled prosecutor.

There is no question of prosecutorial misconduct in this case. In 2010 Denise Page Hood, Chief Judge of the United States District Court for the Eastern District of Michigan overturned Freeman's conviction. In doing so, she declared that the prosecutor's office engaged in official misconduct to convict Mr. Freeman by illegally soliciting perjured testimony. The Chief Justice clearly saw that Mr. Joplin, the prosecution's key witness and a six-time convicted felon, lied when he said that Mr. Freeman spontaneously confessed to him that he committed the murder. Mr. Joplin later admitted that he was coerced by the prosecution into lying and received favors for doing so. An official document signed by the assistant prosecutor and judge confirms this illegal solicitation of perjury and the granting of community placement rather than a return to Jackson prison. Unfortunately, Judge Hood's decision was overturned by the US 6th Circuit Court of Appeals in 2012 solely on procedural grounds without consideration of any substantive issues.

In 2017, the 6th Circuit Court affirmed Mr. Freeman's other claims of prosecutorial misconduct and malfeasance to include proving beyond a reasonable doubt that the prosecutor and St. Clair County officials deliberately and maliciously withheld critical photographic evidence from the defense for years, finding a clear "Brady" violation. The original photo line-up of possible suspects shown to witnesses was not presented to the jury. The prosecution illegally altered and changed those photos deceitfully before trial, and then not only lied about this to the jury but presented a completely fabricated photo board. In a shocking

violation of the rules of criminal trial procedure, Cleland deliberately elicited testimony that Mr. Freeman's photo was taken "from the mug file." This informed the jury that Freeman had been arrested in the past (for a crime he had not been convicted of) to further inflame their passions and animus against him.

This prosecutor, whose oath required him to convict the guilty and protect the innocent, completely failed in his duty to the public by presenting a wild, totally unsubstantiated theory that Mr. Freeman could have flown from Escanaba to Port Huron and back to commit the murder. He used his own private pilot as an "expert" witness and never disclosed the potential bias. This completely unsupported presentation was highly unethical and illegal, yet it had a significant influence on the jury. Freeman's counsel was too incompetent and impaired to effectively object to this or any of the other illegal, highly prejudicial "evidence" presented by the prosecution.

Despite being found by his own colleagues on the Federal bench to have committed prosecutorial misconduct, Cleland stubbornly refuses to admit to the many errors committed during the "investigation" and "trial." He refuses to acknowledge the overwhelming evidence of Fred Freeman's innocence. Cleland's vast and consistent political influence over all levels of government - St. Clair County, the State Capital, the federal courts and even our representatives in Washington - make this all very concerning, and very disheartening. Cleland may be the one central key to the many setbacks that have occurred along the path to justice. Yet his position as a Federal judge requires that he seek justice. When he accepted his appointment to the Federal bench, Cleland was required to take an oath where he swore to:

administer justice without respect to persons, and do equal right to the poor and to the rich, and that [he] will faithfully and impartially discharge and perform all the duties incumbent upon me under the Constitution and laws of the United States.

Cleland has shown as much disrespect for this oath as he did for his prosecutorial oath. Frankly, he has acted deplorably and should be the subject of a federal judicial conduct complaint for consistently violating his oath of office.

Outgoing Governor Rick Snyder, who issued pardons and commutations to many others, denied Fred Freeman's request. When he was interviewed about his pardons and commutations, he had the gall to applaud the Michigan Parole Board, who is still playing "hide the hat" with Freeman's supporters about what

they submitted to the Governor. This was a clear miss by Snyder and to say it was very disappointing personally would be a huge understatement.

Outgoing Attorney General Bill Schuette, whose ethics overall should be questioned by anyone who has dealt with him, had every opportunity to undo the wrong perpetrated in this “investigation” and “trial.” He missed them all, by encouraging his staff to consistently misrepresent the facts of the case and continue the malfeasance. His job was to analyze the mistakes made by the “state officials” (police, prosecutor, judge) responsible for this wrongful conviction and objectively follow the facts. He approached this case with the perspective that nothing was going to upset (fellow highly-influential Republican) Bob Cleland’s apple cart no matter what it took. So far, Bill, you’ve succeeded, but thankfully your days as AG have come to a close. It will be nice to have a fresh set of objective eyes on this case by an AG who might actually form a Wrongful Conviction Unit instead of pretending to; who might schedule meetings and not mysteriously cancel them at the last minute; and who might not be scared of the Big Bad Wolf you seem to think is Bob Cleland. This case was built on a house of cards and I have a feeling when we take Bill and Bob out of the equation, they will all start falling down.

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I’ve made some simple resolutions for 2019. One of them is to continue to find the answer to the question “Who Killed Scott Macklem?” despite what a small influence my insights might provide to that answer. Too many of us DO care about the answer to this question, and it’s time to call out those who truly don’t care. If you have any information that may assist in this effort, I urge you to contact Dave Sanders at bdsanders@provinginnocence.org.

Thank you, let’s find Scott’s killer!

Barbara Kennedy